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CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTION OF TORTURE AND DETENTION

Written statement submitted by the Society for Threatened Peoples, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1996/31.

[15 February 1999]

GE.99-11386 (E)

Mistreatment of and discrimination of ethnic Albanians in Kosovo

1. The Society for Threatened Peoples informs the Commission on Human Rights of violations of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment by the authorities of the Federal Republic of Yugoslavia. In particular, ethnic Albanians are victims of mistreatment and degrading treatment because of their nationality.

2. The Federal Republic of Yugoslavia is obliged to comply with the Convention against Torture, which it has ratified. In addition it has made the declaration under article 22. The prohibition of torture and other forms of mistreatment is also enshrined in the Federal Constitution of Yugoslavia, promulgated in 1992, and the Criminal Code of Yugoslavia, promulgated in 1976. Of these provisions, specifically articles 1, 11, 12 and 15 of the Convention against Torture, articles 23 and 25 of the Federal Constitution of Yugoslavia and articles 190 and 191 of the Criminal Code of Yugoslavia have been continually violated. Of course, several other international laws and standards have also been violated.

3. The Serbian authorities continue to arrest blameless ethnic Albanian citizens under the pretext of the struggle against terrorism. There are no reasonable grounds for such action; the basis for the repression is the Albanian ethnicity of those under suspicion. Arbitrary detentions of this nature are forbidden by article 23 of the Yugoslav Constitution. To date, the Serbian Government has admitted to detaining 684 ethnic Albanians, while it is widely estimated that upwards of 1,500 Albanians have been arbitrarily and illegally arrested. The number is only an estimate because various human rights monitoring organizations have been denied access to either the detained or any records of their detention.

4. Article 1 of the Convention against Torture defines torture as "any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity".

5. Article 25 of the Federal Constitution of Yugoslavia also outlaws torture of a detainee, as well as the forcible extraction of confessions, when it states: "Respect for human personality and dignity shall be guaranteed in criminal and in any other proceeding in the case of deprivation or restriction of liberty and during the enforcement of a penalty. Any violence against a person deprived of liberty or whose liberty has been restricted, as well as any extortion of a confession or statement shall be forbidden and punishable. No one may be subjected to torture, degrading treatment or punishment".

6. The reports of detention seem to coincide in every way with what is deemed illegal by those two instruments. Defendants widely report having been subjected to severe repeated torture, intended to extort false confessions when no evidence can be brought forth to substantiate prosecution charges of

illegal activity and terrorism. The pattern seems to indicate that persons against whom there is little or no evidence must endure a greater degree of cruel and unusual punishment; the beatings and various other forms of torture have, at times, been so severe that some have not survived them.

7. The Serbian police have admitted that Adem Berisha, Rexhep Beslimi, Cen Dugolli, Maksut Qafleshi and Bilal Shala all died from trauma inflicted while being interrogated. This trauma has been inflicted variously by punching, kicking, beating of the prisoner's heads, hands, feet and genitals with objects, including police batons, and electric shocks, to name just a few modes of torture. The extreme beatings and torture (which the Serbian police apparently also call "interrogation") have been documented in post-mortem photographs of the deceased that reveal clear signs of torture, including broken bones, severe contusions, and internal haemorrhaging, inflicted during detention, according to Serbian police reports. These photographs clearly substantiate claims of abuse and torture in violation of the International Covenant on Civil and Political Rights and the Convention against Torture.

8. The subjects seemed to have been beaten until a confession was extracted or they died. It is these confessions which are used as the basis for sentencing defendants, even though such statements are explicitly deemed illegal by the aforementioned article 25 of the Federal Constitution; article 15 of the Convention against Torture which states "Each State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings", and article 190 of the Criminal Code of Yugoslavia which states "Whosoever in an official capacity resorts to force, threat or other impermissible means or impermissible ways with the intention of extorting a deposition or other statement from the accused, witnesses, experts or other persons, shall be punished by imprisonment".

9. The Society for Threatened Peoples appeals to the Commission on Human Rights:

(a) To insist that the Serbian Government abide by international and domestic conventions and cease the criminal manner in which ethnic Albanians are continually and cruelly persecuted. The Serbian authorities must be instructed to act in accordance with the relevant international regulations;

(b) To demand that all prisoners, especially those detained for political and/or discriminatory reasons, who cannot be reasonably proved guilty of any offence be released;

(c) To urge that the International Committee of the Red Cross and other humanitarian monitoring organizations be granted access to the prisoners in order to inspect and document the atrocities committed.